

Senate Engrossed House Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-seventh Legislature
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CHAPTER 245

HOUSE BILL 2793

AN ACT

AMENDING SECTIONS 1-215, 41-1604 AND 41-2804, ARIZONA REVISED STATUTES;
RELATING TO PEACE OFFICERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 1-215, Arizona Revised Statutes, is amended to
3 read:

4 1-215. Definitions

5 In the statutes and laws of this state, unless the context otherwise
6 requires:

7 1. "Action" includes any matter or proceeding in a court, civil or
8 criminal.

9 2. "Adopted rule" means a final rule as defined in section 41-1001.

10 3. "Adult" means a person who has attained the age of eighteen years.

11 4. "Alternative fuel" means:

12 (a) Electricity.

13 (b) Solar energy.

14 (c) Liquefied petroleum gas, natural gas, hydrogen or a blend of
15 hydrogen with liquefied petroleum or natural gas that complies with any of
16 the following:

17 (i) Is used in an engine that is certified to meet at a minimum the
18 United States environmental protection agency low emission vehicle standard
19 pursuant to 40 Code of Federal Regulations section 88.104-94 or 88.105-94.

20 (ii) Is used in an engine that is certified by the engine modifier to
21 meet the addendum to memorandum 1-A of the United States environmental
22 protection agency as printed in the federal register, volume 62, number 207,
23 October 27, 1997, pages 55635 through 55637.

24 (iii) Is used in an engine that is the subject of a waiver for that
25 specific engine application from the United States environmental protection
26 agency's memorandum 1-A addendum requirements and that waiver is documented
27 to the reasonable satisfaction of the director of the department of
28 environmental quality.

29 (d) Only for vehicles that use alcohol fuels before August 21, 1998,
30 alcohol fuels that contain not less than eighty-five per cent alcohol by
31 volume.

32 (e) A combination of at least seventy per cent alternative fuel and no
33 more than thirty per cent petroleum based fuel that operates in an engine
34 that meets the United States environmental protection agency low emission
35 vehicle standard pursuant to 40 Code of Federal Regulations section 88.104-94
36 or 88.105-94 and that is certified by the engine manufacturer to consume at
37 least seventy per cent alternative fuel during normal vehicle operations.

38 5. "Bribe" signifies anything of value or advantage, present or
39 prospective, asked, offered, given, accepted or promised with a corrupt
40 intent to influence, unlawfully, the person to whom it is given in that
41 person's action, vote or opinion, in any public or official capacity.

42 6. "Child" or "children" as used in reference to age of persons means
43 persons under the age of eighteen years.

1 7. "Clean burning fuel" means:

2 (a) An emulsion of water-phased hydrocarbon fuel that contains not
3 less than twenty per cent water by volume and that complies with any of the
4 following:

5 (i) Is used in an engine that is certified to meet at a minimum the
6 United States environmental protection agency low emission vehicle standard
7 pursuant to 40 Code of Federal Regulations section 88.104-94 or 88.105-94.

8 (ii) Is used in an engine that is certified by the engine modifier to
9 meet the addendum to memorandum 1-A of the United States environmental
10 protection agency as printed in the federal register, volume 62, number 207,
11 October 27, 1997, pages 55635 through 55637.

12 (iii) Is used in an engine that is the subject of a waiver for that
13 specific engine application from the United States environmental protection
14 agency's memorandum 1-A addendum requirements and that waiver is documented
15 to the reasonable satisfaction of the director of the department of
16 environmental quality.

17 (b) A diesel fuel substitute that is produced from nonpetroleum
18 renewable resources if the qualifying volume of the nonpetroleum renewable
19 resources meets the standards for California diesel fuel as adopted by the
20 California air resources board pursuant to 13 California code of regulations
21 sections 2281 and 2282 in effect on January 1, 2000, the diesel fuel
22 substitute meets the registration requirement for fuels and additives
23 established by the United States environmental protection agency pursuant to
24 section 211 of the clean air act as defined in section 49-401.01 and the use
25 of the diesel fuel substitute complies with the requirements listed in 10
26 Code of Federal Regulations part 490, as printed in the federal register,
27 volume 64, number 96, May 19, 1999.

28 (c) A diesel fuel that complies with all of the following:

29 (i) Contains a maximum of fifteen parts per million by weight of
30 sulfur.

31 (ii) Meets ASTM D975.

32 (iii) Meets the registration requirements for fuels and additives
33 established by the United States environmental protection agency pursuant to
34 section 211 of the clean air act as defined in section 49-401.01.

35 (iv) Is used in an engine that is equipped or has been retrofitted
36 with a device that has been certified by the California air resources board
37 diesel emission control strategy verification procedure, the United States
38 environmental protection agency voluntary diesel retrofit program or the
39 United States environmental protection agency verification protocol for
40 retrofit catalyst, particulate filter and engine modification control
41 technologies for highway and nonroad use diesel engines.

42 (d) A blend of unleaded gasoline that contains at minimum eighty-five
43 per cent ethanol by volume or eighty-five per cent methanol by volume.

44 (e) Neat methanol.

45 (f) Neat ethanol.

- 1 8. "Corruptly" imports a wrongful design to acquire or cause some
2 pecuniary or other advantage to the person guilty of the act or omission
3 referred to, or to some other person.
- 4 9. "Daytime" means the period between sunrise and sunset.
- 5 10. "Depose" includes every manner of written statement under oath or
6 affirmation.
- 7 11. "Federal poverty guidelines" means the poverty guidelines as
8 updated annually in the federal register by the United States department of
9 health and human services.
- 10 12. "Grantee" includes every person to whom an estate or interest in
11 real property passes, in or by a deed.
- 12 13. "Grantor" includes every person from or by whom an estate or
13 interest in real property passes, in or by a deed.
- 14 14. "Includes" or "including" means not limited to and is not a term of
15 exclusion.
- 16 15. "Inhabitant" means a resident of a city, town, village, district,
17 county or precinct.
- 18 16. "Issue" as used in connection with descent of estates includes all
19 lawful, lineal descendants of the ancestor.
- 20 17. "Knowingly" imports only a knowledge that the facts exist that
21 bring the act or omission within the provisions of the statute using such
22 word. It does not require any knowledge of the unlawfulness of the act or
23 omission.
- 24 18. "Magistrate" means an officer having power to issue a warrant for
25 the arrest of a person charged with a public offense and includes the chief
26 justice and judges of the supreme court, judges of the superior court,
27 justices of the peace and police magistrates in cities and towns.
- 28 19. "Majority" or "age of majority" as used in reference to age of
29 persons means the age of eighteen years or more.
- 30 20. "Malice" and "maliciously" import a wish to vex, annoy or injure
31 another person, or an intent to do a wrongful act, established either by
32 proof or presumption of law.
- 33 21. "Mentally ill person" includes an idiot, an insane person, a
34 lunatic or a person non compos.
- 35 22. "Minor" means a person under the age of eighteen years.
- 36 23. "Minor children" means persons under the age of eighteen years.
- 37 24. "Month" means a calendar month unless otherwise expressed.
- 38 25. "Neglect", "negligence", "negligent" and "negligently" import a
39 want of such attention to the nature or probable consequence of the act or
40 omission as a prudent man ordinarily bestows in acting in his own concerns.
- 41 26. "Nighttime" means the period between sunset and sunrise.
- 42 27. "Oath" includes an affirmation or declaration.
- 43 28. "Peace officers" means sheriffs of counties, constables, marshals,
44 policemen of cities and towns, commissioned personnel of the department of
45 public safety, PERSONNEL WHO ARE EMPLOYED BY THE STATE DEPARTMENT OF

1 CORRECTIONS AND THE DEPARTMENT OF JUVENILE CORRECTIONS WHO HAVE RECEIVED A
2 CERTIFICATE FROM THE ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD,
3 peace officers who are appointed by a multicounty water conservation district
4 and who have received a certificate from the Arizona peace officer standards
5 and training board, police officers who are appointed by community college
6 district governing boards and who have received a certificate from the
7 Arizona peace officer standards and training board, police officers who are
8 appointed by the Arizona board of regents and who have received a certificate
9 from the Arizona peace officer standards and training board and police
10 officers who are appointed by the governing body of a public airport pursuant
11 to section 28-8426 and who have received a certificate from the Arizona peace
12 officer standards and training board.

13 29. "Person" includes a corporation, company, partnership, firm,
14 association or society, as well as a natural person. When the word "person"
15 is used to designate the party whose property may be the subject of a
16 criminal or public offense, the term includes the United States, this state,
17 or any territory, state or country, or any political subdivision of this
18 state that may lawfully own any property, or a public or private corporation,
19 or partnership or association. When the word "person" is used to designate
20 the violator or offender of any law, it includes corporation, partnership or
21 any association of persons.

22 30. "Personal property" includes money, goods, chattels, dogs, things
23 in action and evidences of debt.

24 31. "Population" means the population according to the most recent
25 United States decennial census.

26 32. "Process" means a citation, writ or summons issued in the course of
27 judicial proceedings.

28 33. "Property" includes both real and personal property.

29 34. "Real property" is coextensive with lands, tenements and
30 hereditaments.

31 35. "Registered mail" includes certified mail.

32 36. "Seal" as used in reference to a paper issuing from a court or
33 public office to which the seal of such court or office is required to be
34 affixed means an impression of the seal on that paper, an impression of the
35 seal affixed to that paper by a wafer or wax, a stamped seal, a printed seal,
36 a screened seal or a computer generated seal.

37 37. "Signature" or "subscription" includes a mark, if a person cannot
38 write, with the person's name written near it and witnessed by a person who
39 writes the person's own name as witness.

40 38. "State", as applied to the different parts of the United States,
41 includes the District of Columbia, this state and the territories.

42 39. "Testify" includes every manner of oral statement under oath or
43 affirmation.

44 40. "United States" includes the District of Columbia and the
45 territories.

1 41. "Vessel", as used in reference to shipping, includes ships of all
2 kinds, steamboats, steamships, barges, canal boats and every structure
3 adapted to navigation from place to place for the transportation of persons
4 or property.

5 42. "Wilfully" means, with respect to conduct or to a circumstance
6 described by a statute defining an offense, that a person is aware or
7 believes that the person's conduct is of that nature or that the circumstance
8 exists.

9 43. "Will" includes codicils.

10 44. "Workers' compensation" means workmen's compensation as used in
11 article XVIII, section 8, Constitution of Arizona.

12 45. "Writ" signifies an order or precept in writing issued in the name
13 of the state or by a court or judicial officer.

14 46. "Writing" includes printing.

15 Sec. 2. Section 41-1604, Arizona Revised Statutes, is amended to read:
16 41-1604. Duties and powers of director

17 A. The director shall:

18 1. Be responsible for the overall operations and policies of the
19 department.

20 2. Maintain and administer all institutions and programs within the
21 department, including prisons, reception and diagnostic centers, conservation
22 camps, community correctional centers and such other facilities and programs
23 as may be required and established for the custody, control, correction,
24 treatment and rehabilitation of all adult offenders who are committed to the
25 department.

26 3. Be responsible for the administration and execution of all
27 community supervision services, including those for adult offenders who are
28 released in accordance with law.

29 4. Develop a program to provide uniform statewide community
30 supervision field services in this state and employ parole or community
31 supervision officers based on qualifications prescribed by the director,
32 including physical, psychological and educational qualifications and
33 practical experience.

34 5. Be responsible for the development of policies and programs that
35 shall be recommended to the governor and the legislature for the purpose of
36 improving the various adult correctional programs of this state.

37 6. Develop and establish a uniform statewide method of reporting
38 statistics as related to this chapter.

39 7. Employ deputy directors and other key personnel based on
40 qualifications prescribed by the director that require education and
41 practical experience.

42 8. Adopt rules pursuant to chapter 6 of this title for the development
43 of incentives to encourage good behavior and the faithful performance of work
44 by prisoners.

1 9. Adopt rules pursuant to chapter 6 of this title to limit inmate
2 access to the internet through the use of a computer, computer system,
3 network, computer service provider or remote computing service.

4 10. Cooperate with the Arizona-Mexico commission in the governor's
5 office and with researchers at universities in this state to collect data and
6 conduct projects in the United States and Mexico on issues that are within
7 the scope of the department's duties and that relate to quality of life,
8 trade and economic development in this state in a manner that will help the
9 Arizona-Mexico commission to assess and enhance the economic competitiveness
10 of this state and of the Arizona-Mexico region.

11 B. The director may:

12 1. Adopt rules to implement the purposes of the department and the
13 duties and powers of the director.

14 2. Take any administrative action to improve the efficiency of the
15 department, including the following:

16 (a) Create new divisions or units or consolidate divisions or units.

17 (b) Transfer employees between the various divisions and units of the
18 department.

19 (c) Shift duties between divisions or units.

20 (d) Delegate to appropriate personnel the administrative functions,
21 powers or duties that the director believes can be competently, efficiently
22 and properly performed. The director shall not delegate the responsibilities
23 in subsection A, paragraphs 1 and 5 of this section.

24 (e) Transfer adult inmates between adult institutions or adult
25 facilities.

26 (f) Authorize work crews to perform acceptable tasks in any part of
27 the state.

28 (g) Accept unconvicted persons pursuant to a court order for purposes
29 of examination and treatment regarding ~~such person's~~ competency to understand
30 any stage of a criminal proceeding after indictment or information or their
31 ability to assist in their own defense.

32 (h) Accept convicted yet unsentenced persons pursuant to a court order
33 for purposes of conducting a mental health examination or a diagnostic
34 evaluation.

35 (i) Appoint certain employees of the department to peace officer
36 status for purposes ~~only~~ of guarding, transporting or pursuing persons WHO
37 ARE under the jurisdiction of the department and appoint certain employees of
38 the department to peace officer status for purposes of investigating or
39 arresting persons who commit or attempt to commit offenses directly relating
40 to the operations of the department. ~~For purposes of investigating and~~
41 ~~arresting persons who commit or attempt to commit offenses directly relating~~
42 ~~to the operations of the department, personnel who are appointed by the~~
43 ~~director pursuant to this subdivision have the authority and power of peace~~
44 ~~officers only while engaged in investigating or arresting persons who commit~~
45 ~~or attempt to commit offenses directly relating to the operations of the~~

1 ~~department.~~ Peace officers of the department shall not preempt the authority
2 and jurisdiction of established agencies of this state and political
3 subdivisions of this state. Such officers shall notify agencies of this
4 state and political subdivisions of this state before conducting an
5 investigation within the jurisdiction of the agency and before making an
6 arrest within the jurisdiction of the agency and shall ask, except in an
7 emergency, if the agency wishes to participate, perform the investigation or
8 arrest the person to be arrested before proceeding. Personnel who are
9 appointed as peace officers by the director shall have the minimum
10 qualifications established for peace officers pursuant to section 41-1822.
11 Personnel who are appointed by the director pursuant to this subdivision are
12 not eligible to participate in funding provided by the peace officers'
13 training fund established by section 41-1825 or in the public safety
14 personnel retirement system except as otherwise provided in title 38, chapter
15 5, article 4.

16 (j) Operate travel reduction programs that are subsidized by the
17 department for employees who commute between work and home by vanpools,
18 carpools and buses or in vehicles that are purchased or leased by the
19 department.

20 Sec. 3. Section 41-2804, Arizona Revised Statutes, is amended to read:
21 41-2804. Duties and powers of director

22 A. The director shall:

23 1. Be responsible for the overall operations and policies of the
24 department.

25 2. Maintain and administer all secure care facilities and programs
26 within the department required and established for the custody, control,
27 treatment, education and rehabilitation of all youth committed to the
28 department.

29 3. Be responsible for the administration and execution of all
30 conditional liberty services for youth released pursuant to rules adopted by
31 the director in accordance with law.

32 4. Be responsible for the development of policies and programs which
33 shall be recommended to the governor and the legislature for the purpose of
34 improving the youth rehabilitative and treatment programs of this state.

35 5. Develop and establish a uniform statewide method of reporting
36 statistics as related to this chapter.

37 6. Employ deputy directors and other key personnel based on
38 qualifications prescribed by the director which require education and
39 practical experience.

40 B. The director may:

41 1. Adopt rules to implement the purposes of the department and the
42 duties and powers of the director.

43 2. Take any administrative action to improve the efficiency of the
44 department, including the following:

45 (a) Create new divisions or units or consolidate divisions or units.

1 (b) Transfer employees between the various divisions and units of the
2 department.

3 (c) Shift duties between divisions or units.

4 (d) Delegate authority to appoint, hire, terminate and discipline all
5 personnel of the department, including specialists and consultants.

6 (e) Transfer committed youth between secure care facilities.

7 (f) Transfer youth who have been committed to the department or to any
8 facility under its jurisdiction between the various secure care facilities
9 for youths, foster homes and public and private agencies on notification to
10 the committing court.

11 (g) Appoint certain employees of the department to peace officer
12 status for purposes only of guarding, transporting or pursuing persons under
13 the jurisdiction of the department and appoint certain employees of the
14 department to peace officer status for purposes of investigating or arresting
15 persons who commit or attempt to commit offenses directly relating to the
16 operations of the department.

17 3. Contract with other agencies or institutions in furtherance of any
18 department program.

19 ~~C. Personnel appointed by the director pursuant to subsection B,~~
20 ~~paragraph 2, subdivision (g) of this section for purposes of investigating~~
21 ~~and arresting persons who commit or attempt to commit offenses directly~~
22 ~~relating to the operations of the department have the authority and power of~~
23 ~~peace officers only while actually on duty and engaged in investigating or~~
24 ~~arresting persons who commit or attempt to commit offenses directly relating~~
25 ~~to the operations of the department. Peace officers of the department shall~~
26 ~~not preempt the authority and jurisdiction of established agencies of this~~
27 ~~state and political subdivisions of this state. Such officers shall notify~~
28 ~~agencies of this state and political subdivisions of this state before~~
29 ~~conducting an investigation within the jurisdiction of the agency and before~~
30 ~~making an arrest within the jurisdiction of the agency and shall ask, except~~
31 ~~in an emergency, if the agency wishes to participate, perform the~~
32 ~~investigation or arrest the person to be arrested before~~
33 ~~proceeding. Personnel appointed as peace officers by the director shall have~~
34 ~~the minimum qualifications established for peace officers pursuant to section~~
35 ~~41-1822. Personnel appointed by the director pursuant to subsection B,~~
36 ~~paragraph 2, subdivision (g) of this section are not eligible to participate~~
37 ~~in funding provided by the peace officers' training fund established by~~
38 ~~section 41-1825 or in the public safety personnel retirement system except as~~
39 ~~otherwise provided in title 38, chapter 5, article 4.~~

APPROVED BY THE GOVERNOR MAY 2, 2006.

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